

Filed 05/23/05
Rec# 3721
No Sum Iss
1543

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DAVID BERRY and SANDRA BERRY,)
his wife, GARY CHECONSKY, SHELVA)
D. CRIPPEN, MICHELLE L. HARMON,)
CAROL SUE HOOPES-DEAN, TERESA)
MARKER, LAURIE RUSHFORD,)
DEBORAH S. SAHADY and REBECCA)
THOMSON,)

CIVIL ACTION

NO.

05 0711

Plaintiff,

JURY TRIAL DEMANDED

vs.

ANGELO M. FALCONI, individually and)
t/d b/a ANGIE'S WASHINGTON HONDA)
HARLEY DAVIDSON and ANGELO)
FALCONI FINANCE & RENTAL CO.,)
ANGELO F. FALCONI, individually and)
t/d b/a FALCONI ENTERPRISES,)
ANGELO FALCONI FINANCE &)
RENTAL CO. and VIRGINIA MANOR)
SHOPS PARTNERSHIP, PHILLIP)
FALCONI t/d b/a FALCONI ENTERPRISES)
and VIRGINIA MANOR SHOPS)
PARTNERSHIP, CESARE, INC.,)
FALCONI TOYOTA MOTORS, INC.,)
AIRPORT HYUNDAI INC., AIRPORT)
AUTOMOBILES, INC., AFRM, INC.,)
FALCONI OLDSMOBILE CADILLAC)
INC., and VIRGINIA MANOR SHOPS)
PARTNERSHIP LLP,)

Defendants.)

COMPLAINT

AND NOW, comes the Plaintiffs, David Berry and Sandra Berry, his wife, Gary
Checonsky, Shelva D. Crippen, Michelle L. Harmon, Carol Sue Hoopes-Dean, Teresa Marker,
Laurie Rushford, Deborah S. Sahady and Rebecca Thomson, by and through their attorneys,

Clark A. Mitchell & Associates and Dale J. Gregg, Esquire, and files this Complaint against the defendants and in support thereof aver as follows:

INTRODUCTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 ("Title VII) alleging discrimination in employment on account of sex, sexual harassment, hostile work environment and retaliation, as well as pendant state law claims.

I. PARTIES

1. Plaintiff, David Berry (hereinafter "D. BERRY") is an adult individual residing at 1872 The Circle, Washington, PA 15301.

2. Plaintiff, Sandra Berry (hereinafter "S. BERRY") is an adult individual residing at 1872 The Circle, Washington, PA 15301.

3. Plaintiff, Gary Checonsky (hereinafter "CHECONSKY") is an adult individual residing at 1620 Werich Avenue, Washington, PA 15301.

4. Plaintiff, Shelva D. Crippen (hereinafter "CRIPPEN") is an adult individual residing at 4515 Grand Avenue, Shadyside, Ohio 43957.

5. Plaintiff, Michelle L. Harmon (hereinafter "HARMON") is an adult individual residing at Lot 18, Reesman's Court, Waynesburg, PA 15370.

6. Plaintiff, Carol Sue Hoopes-Dean (hereinafter "HOOPES-DEAN") is an adult individual residing at 417 Locust Avenue, Washington, PA 15301.

7. Plaintiff, Teresa Marker (hereinafter "MARKER") is an adult individual residing at 555 Genteel Ridge, Wellsburg, West Virginia 26070.

8. Plaintiff, Laurie Rushford (hereinafter "RUSHFORD") is an adult individual residing at 1620 Werich Avenue, Washington, PA 15301.

9. Plaintiff, Deborah S. Sahady (hereinafter "SAHADY") is an adult individual residing at 737 Eighty-Eight Road, Carmichaels, PA 15320.

10. Plaintiff, Rebecca Thomson (hereinafter "THOMSON") is an adult individual residing at 117 Stoney's Lane, Zelienople, PA 15301.

11. Plaintiffs, D BERRY, S. BERRY, CHECONSKY, CRIPPEN, HARMON, HOOPES-DEAN, MARKER, RUSHFORD, SAHADY and THOMSON, are collectively referred to as the "Plaintiffs".

12. Defendant, Angelo M. Falconi ("FALCONI, JR"), is an adult individual t/d/b/a Angie's Washington Honda Harley Davidson ("AWHHD") and Angelo Falconi Finance & Rental Co. Upon information and belief, FALCONI, JR. is currently employed by Cesare, Inc. at 382 West Chestnut Street, Washington, PA 15301.

13. Defendant, Angelo F. Falconi ("FALCONI, SR"), is an adult individual t/d/b/a Falconi Enterprises ("FE") with a place of business at 940 Henderson Avenue, Washington, PA 15301, Angelo Falconi Finance & Rental Co., and Virginia Manor Shops Partnership. FALCONI, JR. is the only child of FALCONI, SR.

14. Defendant, Phillip Falconi ("PF"), is an adult individual t/d/b/a Falconi Enterprises ("FE") with a place of business at 940 Henderson Avenue, Washington, PA 15301 and Virginia Manor Shops Partnership.

15. Defendant, Cesare, Inc., (hereinafter "CESARE") is a Pennsylvania corporation with a place of business at 382 West Chestnut Street, Washington, PA 15301. Upon information and belief FALCONI, SR is the sole shareholder of CESARE.

16. Defendant, Falconi Toyota Motors, Inc. (hereinafter "FTM"), is a Pennsylvania corporation with a place of business at 307 Washington Road, Washington, PA 15301.

17. Defendant, Falconi Oldsmobile Cadillac, Inc. (hereinafter "FOC"), is a Pennsylvania corporation with a place of business at 192 Ohio River Boulevard, Ambridge, PA 15202.

18. Defendant, Airport Hyundai, Inc. (hereinafter "AH"), is a Pennsylvania corporation with a place of business at 876 Narrows Run Road, Coraopolis, PA 15108.

19. Defendant, Airport Automobiles, Inc. (hereinafter "AA"), is a Pennsylvania corporation with a place of business at 876 Narrows Run Road, Coraopolis, PA 15108.

20. Defendant, AFRM, Inc. (hereinafter "AFRM"), is a Pennsylvania corporation with a place of business at 4803 Route 51 North, Belle Vernon, PA 15012.

21. Defendant, Virginia Manor Shops Partnership LLP (hereinafter "VMSLLP"), is a Pennsylvania limited liability general partnership with a place of business at 1419 State Road 980, Canonsburg, PA 15317.

22. Defendants, FALCONI, JR, FALCONI, SR, PF, CESARE, FTM, FOC, AH, AA, AFRM and VMSLLP are collectively referred to as the "Falconi Defendants".

23. Upon information and belief, the Falconi Defendants are a single integrated enterprise as evidenced by an interrelation of operations, common management and ownership, centralized labor relations and financial interrelationships and entanglements.

24. Upon information and belief, at all times relevant hereto, Defendant FALCONI, SR exercised dominion and control over the other Falconi Defendants, specifically including FALCONI, JR and AWHHD, and directed the hiring, firing and employment practices of the other Falconi Defendants.

II JURISDICTION AND VENUE

25. Federal Court jurisdiction is founded upon 28 U.S.C. §1331, 1343, and 28 U.S.C. § 2000e-2, 2000e-5(f)(3) (P.L. 88-352, Title VII). This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)-5(f)(1) and (5)). Furthermore, Defendants' conduct is violative of the Pennsylvania Human Relations Act, 43 Pa.C.S. § 951 et seq. ("PHRA"), and Plaintiffs invoke the pendant jurisdiction of this court to remedy that violation.

26. The incidents giving rise to the subject cause of action occurred in the Western District of Pennsylvania. The Falconi Defendants own and operate places of business in the Western District of Pennsylvania, including but not limited to AWHHD. Therefore, venue properly lies in this Court pursuant to 28 U.S.C. § 1391(b).

III. CLAIM FOR RELIEF

27. At all times relevant hereto, Plaintiffs were employed at AWHHD's showroom and offices located at 1325 Washington Road, Washington, PA 15301 and were engaged in the retail sales of new and used Harley Davidson motorcycles, parts, clothing and accessories.

28. At all times relevant hereto, each of the Plaintiffs was an "employee" as that term is defined in U.S.C. § 2000e, et seq and 43 P.S. § 954.

29. Upon information and belief, at all times relevant hereto, the Falconi Defendants were involved in the operation of AWHHD and continually had at least 15 employees.

30. At all times relevant hereto, the Falconi Defendants were an "employer" within the meaning of Section 701(d) of Title VII in that it was a person engaged in industry affecting commerce and employed, at all relevant times, a requisite number of persons; and is a person within the meaning of Section 701(a) of Title VII.

31. Upon information and belief, the Falconi Defendants constituted a single employer or integrated enterprise, for the purpose of establishing jurisdiction under Title VII and PHRA. In the alternative, the Falconi Defendants were joint employers for the purpose of establishing jurisdiction under Title VII and PHRA.

32. At all times relevant hereto, the Falconi Defendants were an "employer" within the meaning of 43 P.S. 954(b) in that it was a person or persons employing four or more persons within the Commonwealth.

33. At all times relevant hereto, FALCONI, JR was the President of AWHHD and Plaintiffs performed work for FALCONI, JR and had regular contact with FALCONI, JR.

34. During the course of their employment, Plaintiffs were subject to sexual harassment, a sexually hostile environment, sex discrimination and/or retaliation created by the conduct and actions of FALCONI, JR.

35. At all times relevant hereto, a sexually hostile, intimidating, demeaning degrading and demoralizing environment existed at AWHHD, which hostile environment was ongoing and pervasive, as a result of the following repeated and continuous acts and conduct of FALCONI, JR, specifically including the following:

- a. The use of rude, insulting, obscene, vulgar and salacious language;
- b. The making of crude and obscene references to plaintiffs' and FALCONI, JR's anatomy;
- c. Graphic or degrading sexual acts and comments;
- d. The making of intimidating and obscene threats to plaintiffs;
- e. The making of demeaning and degrading statements about the female sex;
- f. Expressing hatred toward women and the belief that women lack intelligence; and
- g. Physical assaults and battery.

36. The above described workplace conduct was discriminatory, offensive, intimidating and unwelcome to Plaintiffs and created a hostile and abusive working environment and was discriminatory, and interfered with Plaintiffs' ability to do their jobs.

37. The Plaintiffs complained directly to FALCONI, JR on numerous occasions about the offensive and harassing behavior.

38. As a direct result of Plaintiffs' complaints, FALCONI, JR retaliated against the Plaintiffs, in ways that detrimentally affected their terms and conditions of employment, including but not limited to, issuing unwarranted reprimands, repeatedly sending Plaintiffs home without pay and terminating their employment. By way of example, S. BERRY, D. BERRY, CHECONSKY, MARKER and SAHADY were terminated from their employment as a direct result of their complaints regarding FALCONI, JR's offensive and harassing behavior.

39. In response to D. BERRY's complaints about the offensive and harassing behavior directed toward his wife, S. BERRY, FALCONI, JR physically assaulted Mr. Berry.

40. By custom, practice, and in response to instructions, Plaintiffs communicated directly with representatives, management employees, owners, and/or officers of the other Falconi Defendants, including representatives of CESARE and FE regarding day to day employment problems, issues and concerns at AWHHD. Plaintiffs communicated directly with representatives of the FALCONI Defendants, including CESARE and FE, specifically including FALCONI, SR, Edward Morascyk, Esq. and Anthony Marinelli, Esq., regarding employment matters.

41. Plaintiffs complained about FALCONI, JR's conduct to management employees, owners, and/or officers of the other Falconi Defendants, but said unlawful behavior continued and intensified. By way of example, when HARMON complained to FALCONI, SR about FALCONI, JR's conduct, FALCONI, SR responded that there was nothing he could do.

42. The Falconi Defendants had actual or constructive notice of Plaintiffs' complaints about the sexual discrimination, harassment and retaliation committed by FALCONI, JR.

43. The Falconi Defendants took no action to protect Plaintiffs from the discrimination, harassment and retaliation or to correct the hostile work environment created by FALCONI, JR.

44. The Falconi Defendants authorized, sanctioned and ratified, expressly or implicitly, the conduct of FALCONI, JR., thereby aiding and abetting the acts of sexual discrimination, harassment and retaliation committed by FALCONI, JR.

45. The actions and inaction of the Falconi Defendants were deliberate and made Plaintiffs' working conditions intolerable. Said actions created an environment where reasonable persons in the Plaintiffs' positions would be forced to resign. By way of example, CRIPPEN,

TOMSON and MARKER, were constructively discharged and forced to obtain other employment.

46. FALCONI, JR repeatedly terminated Plaintiffs' employment because of their gender. By way of example, Plaintiffs' sex was a motivating factor in FALCONI JR's decision to discharge HARMON and RUSHFORD. By way of further example, FALCONI, JR terminated HOOPES-DEAN the day after she informed him of her pregnancy.

47. As a direct result of the unlawful employment practices and violations of Title VII and the PHRA complained of herein, Plaintiffs have suffered emotional distress, humiliation, physical injury, a loss of self respect and confidence and damage to their career and professional standing. Plaintiffs have experienced a negative effect on their work and the ability to fully and effectively perform their job duties and responsibilities.

48. As a direct result of the unlawful employment practices and violations of Title VII and PHRA complained of herein, Plaintiffs, specifically including HARMON and HOOPES-DEAN, have suffered severe and continuing emotional and psychological distress and a loss of life pleasures and /or the enjoyment of life.

49. As a direct result of the unlawful employment practices and violations of Title VII and PHRA complained of herein, Plaintiffs have suffered the loss of their employment, to their great financial detriment.

50. The unlawful employment practices and violations of Title VII and PHRA complained of herein occurred during the course of the Plaintiffs' employment at AWHHD and were carried out by the Falconi Defendants acting by and through its owners, officers and supervisory personnel.

51 The unlawful employment practices complained of herein were intentional, egregious and outrageous.

52. The unlawful employment practices complained of herein were done with malice or reckless indifference to Plaintiffs' federally protected rights.

53. Plaintiffs contacted the Pittsburgh office of the EEOC between August and November of 2004 and reported the unlawful behavior described herein. Formal complaints were filed with the EEOC, setting forth the Plaintiffs' claims of sexual harassment and sexual discrimination. Said filings effectively constitute the filing of a charge with the PHRC.

54. Plaintiffs timely filed complaints with the EEOC and PHRC against AWHHD which complaints are currently pending before the EEOC.

55. Plaintiffs timely filed complaints with EEOC and PHRC against the other Falconi Defendants, but their pursuit of said complaints provided no real opportunity to obtain a remedy. On or about February 24, 2005, the EEOC issued a determination permitting Plaintiffs to file this private action. The Plaintiffs have, therefore, duly exhausted their administrative remedies with respect to these defendants and all conditions precedent to the institution of this lawsuit have been fulfilled.

56. As a result of the foregoing conduct, Plaintiffs have found it necessary to retain the services of an attorney in these proceedings and are, therefore, entitled to attorney's fees pursuant to Section 706 of Title VII.

56.1. Each Count in this Complaint is directed and applies to each of the FALCONI Defendants.

COUNT I - SEX DISCRIMINATION
VIOLATION OF TITLE VII, 42 U.S.C. SECTION 2000e-2 AND
PENNSYLVANIA HUMAN RELATIONS ACT, 43 P.S. § 955

57 All the preceding paragraphs are incorporated by reference as if fully set forth at length.

58. The acts, failures to act, practices and policies of the Falconi Defendants set forth above constitute intentional discrimination on the basis of Plaintiffs' sex in violation of Section 703 of Title VII, 42 U.S.C. § 2000e-2 and the Pennsylvania Human Relations Act, 43 P.S. § 955.

WHEREFORE, Plaintiffs requests this Honorable Court to enter judgment in their favor and against the Defendants, Angelo M. Falconi, Angelo F. Falconi, Phillip Falconi, Cesare, Inc. Falconi Toyota Motors, Inc., Airport Hyundai, Inc., Airport Autos, Inc., AFRM, Inc., Virginia Manor Shops Partnership LLP and Falconi Oldsmobile Cadillac, Inc., for actual and compensatory damages, including lost wages and benefits of employment and front pay, plus punitive damages, reasonable attorney's fees and costs.

COUNT II - HOSTILE WORK ENVIRONMENT
VIOLATION OF TITLE VII, 42 U.S.C. SECTION 2000e-(2)(a)(1) AND
PENNSYLVANIA HUMAN RELATIONS ACT, 43 P.S. § 955

59. All the preceding paragraphs are incorporated by reference as if fully set forth at length.

60. At all times relevant hereto, the atmosphere at AWHHD was permeated with discrimination, intimidation, ridicule and insult and Plaintiffs were subject to the following unwelcome acts of sexual harassment:

- a. The use of rude, insulting, obscene, vulgar and salacious language;
- d. The making of crude and obscene references to plaintiffs' and FALCONI, JR's anatomy;
- e. Graphic or degrading sexual acts and comments;
- d. The making of intimidating and obscene threats to plaintiffs;
- e. The making of demeaning and degrading statements about the female sex;
- f. Expressing hatred toward women and the belief that women lack intelligence; and
- g. Physical assaults and battery.

61. Said unlawful and discriminatory acts and actions occurred on a regular basis and were severe in nature, such that they altered Plaintiffs' conditions of employment and unreasonably affected their ability to perform their duties.

62. Plaintiffs are members of a protected class and said unlawful and discriminatory acts were directed at Plaintiffs because of their gender.

63. The Falconi Defendants had actual or constructive knowledge of the hostile environment at AWHHD and failed to take any remedial measures.

64. The Falconi Defendants' conduct constitutes a violation of 42 U.S.C. § 2000e-(2) and the Pennsylvania Human Relations Act, 43 P.S. § 955.

65. Plaintiffs have suffered distress, humiliation, severe emotional and psychological distress and a loss of life's pleasures and/or the enjoyment of life. Plaintiffs have further suffered both physical injury and the loss of their jobs, to their great financial detriment.

WHEREFORE, Plaintiffs requests this Honorable Court to enter judgment in their favor and against the Defendants, Angelo M. Falconi, Angelo F. Falconi, Phillip Falconi, Cesare, Inc., Falconi Toyota Motors, Inc., Airport Hyundai, Inc., Airport Autos, Inc., AFRM, Inc., Virginia Manor Shops Partnership LLP and Falconi Oldsmobile Cadillac, Inc., for actual and compensatory damages, including lost wages and benefits of employment and front pay, plus punitive damages, reasonable attorney's fees and costs.

COUNT III - CONSTRUCTIVE DISCHARGE
VIOLATION OF TITLE VII, 42 U.S.C § 2000e-2 AND
PENNSYLVANIA HUMAN RELATIONS ACT, 43 P.S. § 955

66. All the preceding paragraphs are incorporated by reference as if fully set forth at length.

67. The Falconi Defendants knowingly permitted the discriminatory, hostile and offensive conditions to exist and intensify and thereby rendered it intolerable for Plaintiffs to continue their employment.

68. Said conditions of employment were so severe and intolerable that a reasonable person in Plaintiffs' position would have been forced to resign.

69. Under the circumstances, Plaintiffs' resignations were involuntary and amounted to a discharge.

70. The Falconi Defendants' conduct constitutes a violation of 42 U.S.C. § 2000e-(2) and the Pennsylvania Human Relations Act, 43 P.S. § 955.

71. As a direct result of said intolerable conditions, Plaintiffs have experienced severe emotional and psychological distress and the loss of life's pleasures and/or the enjoyment of life. Plaintiffs have further suffered both physical injury and the loss of their jobs and greatly reduced wages, all to their great financial detriment.

WHEREFORE, Plaintiffs, request this Honorable Court to enter judgment in their favor and against the Defendants, Angelo M. Falconi, Angelo F. Falconi, Phillip Falconi, Cesare, Inc., Falconi Toyota Motors, Inc., Airport Hyundai, Inc., Airport Autos, Inc., AFRM, Inc., Virginia Manor Shops Partnership LLP and Falconi Oldsmobile Cadillac, Inc., for actual and compensatory damages, including lost wages and benefits of employment and front pay, plus punitive damages, reasonable attorney's fees and costs.

COUNT IV- RETALIATION
VIOLATION OF TITLE VII, 42 U.S.C. § 2000e- (3) (A) AND
PENNSYLVANIA HUMAN RELATIONS ACT, 43 P.S. § 955

72. All the preceding paragraphs are incorporated by reference as if fully set forth at length.

73. Plaintiffs engaged in a protected activity when they complained to the Falconi Defendants about the discriminatory, harassing and retaliatory conduct of FALCONI, JR.

74. As a direct result of the protected activity, Plaintiffs were subjected to a pattern of antagonism and retaliation by the Falconi Defendants, including but not limited to, repeated reprimands, being sent home without pay, and termination.

75. The Falconi Defendants were aware of said retaliation, harassment and hostility and failed to take appropriate remedial measures, thereby condoning, accepting, approving and intensifying the unlawful conduct of FALCONI, JR.

76. The Falconi Defendants' conduct constitutes a violation of 42 U.S.C. § 2000e-(2) and the Pennsylvania Human Relations Act, 43 P.S. § 955.

77. As a direct result of said intolerable conditions, Plaintiffs have experienced severe emotional and psychological distress and the loss of life's pleasures and/or the enjoyment of life. Plaintiffs have further suffered both physical injury, as well as economic loss, all to their great financial detriment.

WHEREFORE, Plaintiffs requests this Honorable Court to enter judgment in their favor and against the Defendants, Angelo M. Falconi, Angelo F. Falconi, Phillip Falconi, Cesare, Inc. Falconi Toyota Motors, Inc., Airport Hyundai, Inc., Airport Autos, Inc., AFRM, Inc, Virginia Manor Shops Partnership LLP and Falconi Oldsmobile Cadillac, Inc., for actual and compensatory damages, plus punitive damages, reasonable attorney's fees and costs.

COUNT V.- PENNSYLVANIA HUMAN RELATIONS ACT (PHRA)

78. All the preceding paragraphs are incorporated by reference as if fully set forth at length.

79. This is an action arising under the provisions of Pennsylvania law, specifically 43 P.S. § 951, et seq. (the "Pennsylvania Human Relations Act") and this court has, and should exercise, pendant jurisdiction over the same because the cause of action complained of arises out

of the same facts, events and circumstances as in the previous counts and, therefore, judicial economy and fairness dictate that this count be brought in the same complaint.

80. By using sex as a basis for their decision to terminate plaintiffs' employment, by sexually harassing plaintiffs, by harassing plaintiffs because of their gender and by creating and fostering a hostile work environment, the Falconi Defendants violated the provisions of 43 P.S. § 955, which prohibit discrimination and harassment based on sex.

81. Defendant, FALCONI, SR, authorized, sanctioned and ratified, either expressly or implicitly, the conduct of FALCONI, JR, thereby aiding and abetting the prohibited acts of discrimination and harassment committed by FALCONI, JR.

82. As more fully set forth in the previous counts, the Plaintiffs have suffered, directly and solely as a result of the Falconi Defendants' actions, great economic, economic and physical damages and harm and will continue to suffer same for the indefinite future.

WHEREFORE, Plaintiffs requests this Honorable Court to enter judgment in their favor and against the Defendants, Angelo M. Falconi, Angelo F. Falconi, Phillip Falconi, Cesare, Inc., Falconi Toyota Motors, Inc., Airport Hyundai, Inc., Airport Autos, Inc., AFRM, Inc., Virginia Manor Shops Partnership LLP and Falconi Oldsmobile Cadillac, Inc., for actual and compensatory damages (back pay and benefits and front pay and benefits), interest, reasonable attorney's fees and costs.

COUNT VI - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

83. All the preceding paragraphs are incorporated by reference as if fully set forth at length.

84. This is an action under Pennsylvania law and this court has, and should exercise, pendant jurisdiction over the same because the cause of action complained of arises out of the same facts, events and circumstances as in the previous counts and, therefore, judicial economy and fairness dictate that this count be brought in the same complaint.

85. The sexual harassment and the hostile, intimidating, demeaning, degrading and demoralizing work environment described herein was both outrageous in character and extreme in degree.

86. The sexual harassment and the hostile, intimidating, demeaning, degrading and demoralizing work environment described herein was created and perpetuated intentionally or recklessly.

87. As more fully set forth in the previous counts, the Plaintiffs have suffered, directly and solely as a result of the Falconi Defendants' actions, severe emotional distress as well as great economic, physical, and pecuniary damages and harm and will continue to suffer same for the indefinite future.

WHEREFORE, Plaintiffs requests this Honorable Court to enter judgment in their favor and against the Defendants, Angelo M. Falconi, Angelo F. Falconi, Phillip Falconi, Cesare, Inc., Falconi Toyota Motors, Inc., Airport Hyundai, Inc., Airport Autos, Inc., AFRM, Inc., Virginia Manor Shops, LLP and Falconi Oldsmobile Cadillac, Inc., for actual, compensatory, and economic damages (back pay and benefits and front pay and benefits), interest, punitive damages, reasonable attorney's fees and costs.

COUNT VII - PUNITIVE DAMAGES

88. All the preceding paragraphs are incorporated by reference as if fully set forth at length.

89. Under Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a and pendant state law, Defendants are liable for punitive damages for acts of discrimination done with malice or reckless indifference to Plaintiffs' rights.

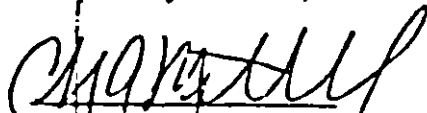
90. The Falconi Defendants, acting by and through FALCONI SR, continued to engage in acts of sexual harassment, discrimination and retaliation, including assault and battery, after Plaintiffs had complained of such conduct, and did so with the knowledge that such conduct was offensive to Plaintiffs, thus creating liability for punitive damages for acts done with indifference to Plaintiffs' federally protected rights.

WHEREFORE, Plaintiffs requests this Honorable Court to enter judgment in her favor and against the Defendants, Angelo M. Falconi, Angelo F. Falconi, Phillip Falconi, Cesare, Inc. Falconi Toyota Motors, Inc., Airport Hyundai, Inc., Airport Autos, Inc., AFRM, Inc., Virginia Manor Shops Partnership LLP and Falconi Oldsmobile Cadillac, Inc., for punitive damages.

COUNT VIII - JURY DEMANDED

91. Plaintiffs demand a trial by jury of all issues in this action.

Respectfully submitted,



CLARK A. MITCHELL, ESQUIRE

Attorney for Plaintiffs

PA J.D. No. 15864

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Washington, PA 15301

(724) 229-9500



DALE J. GREGG, ESQUIRE

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11 East Beau Street, Suite 200

Washington, PA 15301

(724) 229-9653

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DAVID BERRY and SANDRA BERRY,)
his wife, GARY CHECONSKY, SHELVA)
D. CRIPPEN, MICHELLE L. HARMON,)
CAROL SUE HOOPES-DEAN, TERESA)
MARKER, LAURIE RUSHFORD,)
DEBORAH S. SAHADY and REBECCA)
THOMSON,)

Plaintiff,)

vs.)

ANGELO M. FALCONI, individually and)
t/d b/a ANGIE'S WASHINGTON HONDA)
HARLEY DAVIDSON and ANGELO)
FALCONI FINANCE & RENTAL CO.,)
ANGELO F. FALCONI, individually and)
t/d b/a FALCONI ENTERPRISES,)
ANGELO FALCONI FINANCE &)
RENTAL CO. and VIRGINIA MANOR)
SHOPS PARTNERSHIP, PHILLIP)
FALCONI t/d b/a FALCONI ENTERPRISES)
and VIRGINIA MANOR SHOPS)
PARTNERSHIP, CESARE, INC.,)
FALCONI TOYOTA MOTORS, INC.,)
AIRPORT HYUNDAI INC., AIRPORT)
AUTOMOBILES, INC., AFRM, INC.,)
FALCONI OLDSMOBILE CADILLAC)
INC., and VIRGINIA MANOR SHOPS)
PARTNERSHIP LLP,)

Defendants.)

CIVIL ACTION

NO.

JURY TRIAL DEMANDED

05 0711

CIVIL COVER SHEET

This Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating civil district cases. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

(a) PLAINTIFFS

See attached.

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

Washington

DEFENDANTS

See attached.

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

Washington

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (if any) Name, Address, and Telephone Number

Dale Gregg, Esq. &
Clark A. Mitchell, Esq.; Clark A. Mitchell & Associates;
17 South College St.; Washington, PA 15301; 724-229-9500

Attorneys (if known) Phillip J. Binotto, Jr., Esq.; Eckert Seamans
Cherin & Mellott, LLC; Summit Corporate Center, Suite 200;
1001 Corporate Dr.; Canonsburg, PA 15317; 724-873-2880

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

☐ 1 U.S. Government
Plaintiff

☒ 3 Federal Question

(U.S. Government Not a Party)

☐ 2 U.S. Government
Defendant

☐ 4 Diversity

(Indicate Citizenship of Parties on Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES: (Place an "X" in One Box for Plaintiff and One Box for Defendant)

PTF

DEF

PTF DEF

Citizen of This State

☐ 1

☐ 1
Incorporated or Principal Place
of Business in This State

☐ 4

☐ 4

Citizen of Another State

☐ 2

☐ 2
Incorporated and Principal Place
of Business in Another State

☐ 5

☐ 5
Citizen or Subject of a
Foreign Country
☐ 3

☐ 3

Foreign Nation

☐ 6

☐ 6

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TOITS	FORFEITURE/PENALTY	PANAREPTIC	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Marine Act <input type="checkbox"/> 140 Airplane Insurance <input type="checkbox"/> 150 Recovery of Overpayment <input type="checkbox"/> 160 Recovery of Overpayment <input type="checkbox"/> 170 Medicare Act <input type="checkbox"/> 180 Recovery of Defuncted <input type="checkbox"/> 190 Student Loans <input type="checkbox"/> 200 (If not Veterans) <input type="checkbox"/> 210 Recovery of Overpayment <input type="checkbox"/> 220 Veterans' Benefits <input type="checkbox"/> 230 Stockholders' Suits <input type="checkbox"/> 240 Other Contracts <input type="checkbox"/> 250 Contract Product Liability <input type="checkbox"/> 260 Other	<input type="checkbox"/> 310 Personal Injury <input type="checkbox"/> 320 Airplane <input type="checkbox"/> 330 Airplane Product <input type="checkbox"/> 340 Liability <input type="checkbox"/> 350 Airplane, Land & <input type="checkbox"/> 360 Standalone <input type="checkbox"/> 370 Federal Employees <input type="checkbox"/> 380 Liability <input type="checkbox"/> 390 Marine <input type="checkbox"/> 400 Marine Product <input type="checkbox"/> 410 Liability <input type="checkbox"/> 420 Marine Vehicle <input type="checkbox"/> 430 Marine Vehicle <input type="checkbox"/> 440 Product Liability <input type="checkbox"/> 450 Other Personal <input type="checkbox"/> 460 Injury	<input type="checkbox"/> 470 Personal Injury - <input type="checkbox"/> 480 Medical Malpractice <input type="checkbox"/> 490 Personal Injury - <input type="checkbox"/> 500 Product Liability <input type="checkbox"/> 510 Asbestos Personal <input type="checkbox"/> 520 Injury Product <input type="checkbox"/> 530 Liability <input type="checkbox"/> 540 Other Fraud <input type="checkbox"/> 550 Youth in Lending <input type="checkbox"/> 560 Other Personal <input type="checkbox"/> 570 Property Damage <input type="checkbox"/> 580 Property Damage <input type="checkbox"/> 590 Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 630 Drug Related Security <input type="checkbox"/> 640 Property 21 USC 881 <input type="checkbox"/> 650 Liquor Laws <input type="checkbox"/> 660 R.R. & Truck <input type="checkbox"/> 670 Airline Regs. <input type="checkbox"/> 680 Occupational <input type="checkbox"/> 690 Safety Health <input type="checkbox"/> 700 Other <input type="checkbox"/> 710 Fair Labor Standards <input type="checkbox"/> 720 Labor Mgmt. Relations <input type="checkbox"/> 730 Labor Mgmt. Reporting <input type="checkbox"/> 740 Disclosure Act <input type="checkbox"/> 750 Railway Labor Act <input type="checkbox"/> 760 Other Labor Legislation <input type="checkbox"/> 770 Empl. Ret. Inc. <input type="checkbox"/> 780 Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal <input type="checkbox"/> 424 28 USC 157 <input type="checkbox"/> 425 PROPERTY RIGHTS <input type="checkbox"/> 426 Copyrights <input type="checkbox"/> 427 Patent <input type="checkbox"/> 428 Trademark <input type="checkbox"/> 429 SOCIAL SECURITY <input type="checkbox"/> 430 BIA (1375(f)) <input type="checkbox"/> 431 Black Lung (923) <input type="checkbox"/> 432 DYN C/DIN W (405(g)) <input type="checkbox"/> 433 SSID Tab XVI <input type="checkbox"/> 434 RSI (405(g)) <input type="checkbox"/> 435 FEDERAL TAX SUITS <input type="checkbox"/> 436 Taxes (U.S. Plaintiff <input type="checkbox"/> 437 or Defendant) <input type="checkbox"/> 438 IRS - Third Party <input type="checkbox"/> 439 26 USC 7609	<input type="checkbox"/> 440 State Reapportionment <input type="checkbox"/> 441 Arbitration <input type="checkbox"/> 442 Banks and Banking <input type="checkbox"/> 443 Commerce <input type="checkbox"/> 444 Deposition <input type="checkbox"/> 445 Rocker Influence and <input type="checkbox"/> 446 Corrupt Organizations <input type="checkbox"/> 447 Consumer Credit <input type="checkbox"/> 448 Cable/Sat TV <input type="checkbox"/> 449 Selective Service <input type="checkbox"/> 450 Securities/Commodities/ <input type="checkbox"/> 451 Exchange <input type="checkbox"/> 452 Customer Challenge <input type="checkbox"/> 453 12 USC 3410 <input type="checkbox"/> 454 Other Summary Actions <input type="checkbox"/> 455 Agricultural Acts <input type="checkbox"/> 456 Economic Sanitation Act <input type="checkbox"/> 457 Environmental Matters <input type="checkbox"/> 458 Energy Allocation Act <input type="checkbox"/> 459 Freedom of Information <input type="checkbox"/> 460 Act <input type="checkbox"/> 461 Appeal of Fee Determination <input type="checkbox"/> 462 Under Equal Access <input type="checkbox"/> 463 to Justice <input type="checkbox"/> 464 Constitutionality of <input type="checkbox"/> 465 State Statutes
<input type="checkbox"/> 270 Real Property <input type="checkbox"/> 280 Land Condemnation <input type="checkbox"/> 290 Eminent Domain <input type="checkbox"/> 300 Real Estate & Eminent <input type="checkbox"/> 310 Eminent Domain <input type="checkbox"/> 320 Eminent Domain <input type="checkbox"/> 330 Eminent Domain <input type="checkbox"/> 340 Eminent Domain <input type="checkbox"/> 350 Eminent Domain <input type="checkbox"/> 360 Eminent Domain <input type="checkbox"/> 370 Eminent Domain <input type="checkbox"/> 380 Eminent Domain <input type="checkbox"/> 390 Eminent Domain <input type="checkbox"/> 400 Eminent Domain	<input type="checkbox"/> 410 Civil Rights <input type="checkbox"/> 420 Employment <input type="checkbox"/> 430 Housing <input type="checkbox"/> 440 Accommodations <input type="checkbox"/> 450 Age in Discharge <input type="checkbox"/> 460 Age in Discharge <input type="checkbox"/> 470 Age in Discharge <input type="checkbox"/> 480 Age in Discharge <input type="checkbox"/> 490 Age in Discharge <input type="checkbox"/> 500 Other Civil Rights	<input type="checkbox"/> 510 Habeas Corpus <input type="checkbox"/> 520 Habeas Corpus <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 540 Habeas Corpus <input type="checkbox"/> 550 Habeas Corpus <input type="checkbox"/> 560 Habeas Corpus <input type="checkbox"/> 570 Habeas Corpus <input type="checkbox"/> 580 Habeas Corpus <input type="checkbox"/> 590 Habeas Corpus <input type="checkbox"/> 600 Habeas Corpus			

V. ORIGIN

(Place an "X" in One Box Only)

☒ 1 Original Proceeding

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☐ 10

Appeal to District
Judge from
Magistrate
Judgment

VI. CAUSE OF ACTION

Check the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Title VII of Civil Rights Act of 1964 (as amended); Title I of Civil Rights Act of 1991

Brief description of cause:

Sex discrimination and harassment and hostile work environment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE

5/23/05

SIGNATURE OF ATTORNEY OF RECORD

Clark A. Mitchell

FOR OFFICER USE ONLY

RECEIVED

AMOUNT

APPLYING FEE

JUDGE

MAG. JUDGE